

FILED

UNITED STATES COURT OF APPEALS

SEP 09 2008

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CIVIL 03-00385DAE-LEK

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellant,

v.

MARK DILLON; et al.,

Defendants - Appellees.

No. 06-16199

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

ORDER

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellant,

v.

MARK DILLON; et al.,

Defendants - Appellees.

No. 07-15447

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellee,

v.

MARK DILLON; et al.,

Defendants - Appellants,

No. 07-15587

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

MELVIN PONCE, Hawaii citizen; et al.,

Defendants - Appellants,

and

FLEMING COMPANIES, INC., an
Oklahoma Corporation; et al.,

Defendants,

GUIDANCE SOFTWARE, LLC, a
California LLC; et al.,

Defendants.

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellee,

v.

MARK DILLON; et al.,

Defendants,

SONIA PURDY, Hawaii citizen; et al.,

Defendants,

and

POST-CONFIRMATION TRUST,

Defendant - Appellant.

No. 07-15588

D.C. No. CV03-00385-SOM
District of Hawaii,
Honolulu

Before: GOODWIN, RYMER, and IKUTA, Circuit Judges.

Defendants-appellees (1) Post Confirmation Trust; (2) C&S Wholesale Grocers, Inc., C&S Acquisition LLC, C&S Logistics LLC, ES3 LLC, and Richard Cohen; and (3) Guidance Software, Inc., and Michael Gurzi, are awarded attorneys' fees on appeal pursuant to 17 U.S.C. § 505. The determination of an appropriate amount of fees on appeal is referred to the court's special master, Appellate Commissioner Peter L. Shaw, who shall conduct whatever proceedings he deems appropriate, and who shall have authority to enter an order awarding fees. *See* 9th Cir. R. 39-1.9. The order is subject to reconsideration by the panel. *Id.*

Defendants-appellees Brian Christensen, Mark Dillon, Teresa Noa, Justin Fukumoto, Melvin Ponce, Sonia Purdy, Alfreda Waiolama, and Jacqueline Rio's motion for attorneys' fees is DISMISSED as untimely.

Post Confirmation Trust's motion for double attorneys' fees pursuant to Rule 38 of the Federal Rules of Appellate Procedure is DENIED.